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The Commonwealth of Massachusetts

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# ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1936



# The Commonwealth of Massachusetts

## TWENTY-EIGHTH ANNUAL REPORT

### OF THE

### COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1936.

The Commissioners throughout the year were Joseph F. O'Connell, Chairman and Secretary, Willard B. Luther and Henry Parkman, Jr. All are serving under appointments expiring October, 1939.

### HISTORICAL SURVEY

In 1890 New York passed an Act appointing "Commissioners for the promotion of uniformity of legislation in the United States". In the same year the American Bar Association recommended similar appointments in all States. Massachusetts first appointed commissioners in 1909 pursuant to Chapter 416 of the Acts of that year. There are now commissioners for every State, the District of Columbia, Alaska, Puerto Rico, Hawaii and the Phillipine Islands, fifty-three jurisdictions being so represented.

It is not the purpose of the conference to make all laws uniform in all States. This would be both impossible and undesirable. It is its purpose to make uniform the large number of laws which exist in every State dealing with matters which are common to all States, especially where these affect transactions in which citizens of more than one State may be involved. The Negotiable Instruments Act is perhaps the best known and has been adopted by every one of the fifty-three jurisdictions.

### RESULTS

Since its formation the conference has approved fifty-eight different Acts. An overwhelming majority of these have been adopted by a considerable number of States. Massachusetts has adopted the following nineteen Acts:

Acknowledgments (1910); Bills of Lading (1910); Child Labor (1913); Cold Storage (1912); Desertion and Non-support (1911); Federal Tax Lien Registration (1927); Foreign Executed Wills (1911); Foreign Probated Wills (1911); Fraudulent Conveyances (1924); Limited Partnership (1923); Marriage and Marriage License (1911); Marriage Evasion (1913); Negotiable Instruments (1898); Partnership (1922); Sales (1908); Stock Transfer (1910); Trust Receipts (1936); Warehouse Receipts (1907); Narcotics (1935).

### CONFERENCE OF 1936

The forty-sixth Annual Conference was held at Boston, August 17-22, 1936. Seventy-three Commissioners from forty States attended, including all the Massachusetts Commissioners. The Conference elected the following officers:

Alexander Armstrong of Maryland, President  
John H. Wigmore of Illinois, Vice-President  
Bruce W. Sanborn of Minnesota, Treasurer  
William C. Ramsey of Nebraska, Secretary

Prior to this year the Conference could consider only laws as to which uniformity in *all* States was deemed desirable. Experience over forty-five years has shown that there are relatively few laws which all States would consider desirable to have uniform. An amendment adopted at this year's annual conference permits the consideration and approval of laws of general importance as to which States might desire model Acts, and also of laws which might become the basis of inter-state compacts between groups of States, while not suitable for general uniformity between all States. The amendment brings the theoretical aims of the Conference in line with the actual results demonstrated by its history.

The Conference finally approved and recommended the following Uniform Acts:

Trustees' Accounting Act.  
 Business Records as Evidence Act.  
 Composite Reports as Evidence Act.  
 Judicial Notice of Foreign Law Act.  
 Official Reports as Evidence Act.  
 Agricultural Cooperative Association Act.  
 Criminal Extradition Act. (A revision of Act approved in 1931).  
 Attendance of Witnesses from without a State in Criminal Proceedings Act. (A revision of Act approved in 1931).

In addition a number of other Acts were considered and referred to the next Conference.

At the Conference just held Commissioner O'Connell was Chairman of the Committee on Compacts and Agreements between States; Commissioner Luther was a member of the Property Acts Section and Social Welfare Acts Section; and Commissioner Parkman was a member of the Civil Procedure Section. For the coming year the assignments are:

*Commissioner O'Connell:*

Chairman of Committee on Compacts and Agreements between States.

*Commissioner Luther:*

Member of Property Acts Section.

Member of Social Welfare Acts Section.

*Commissioner Parkman:*

Member Legislative Committee.

Member Legislative Drafting Committee.

Member Civil Procedure Acts Section.

Member of Committee on Cooperation with Council of State Governments and American Legislative Association.

#### RECOMMENDATIONS BY COMMISSIONERS

The General Court for 1936 considered the following:

*Uniform Risk of Loss Act:*

This was passed by the Legislature June 12th, but vetoed by the Governor June 22nd. The veto was sustained by the Senate June 23d.

*Uniform Machine Gun Act:*

The Committee on Public Safety reported no legislation necessary.

*Uniform Extradition of Criminals Act:*

The Joint Judiciary Committee on May 26th reported no legislation necessary. The report was referred back to the Committee for further study.

*Uniform Trust Receipts Act:*

This was introduced independently but heartily supported by the Commissioners. It was passed and is now Chapter 264 of the Acts of 1936.

The Commissioners now recommend to the General Court for 1937 the enactment of the following:

*Uniform Risk of Loss Act:*

This is the Act which was passed by the Legislature in 1936, but vetoed by the Governor. It rectifies an anomalous situation in connection with the sales of real estate. At present if a building is destroyed or damaged between the making of a contract of sale and the passing of title or possession to the purchaser, the latter is generally compelled to take the damaged property and pay the full price. The Act provides that in such a case the purchaser may decline to go forward. It was drafted and sponsored by Professor Samuel Williston of the Harvard Law School, for many years a Commissioner for Massachusetts.

*Uniform Extradition of Criminals Act:*

This was also recommended by the Commissioners last year and was finally reported back to the Judicial Council for further study. The Act was revised and improved at this year's session of the Conference and was approved by the Inter-State Commission on Crime, of which Commissioner Kirk of the Department of Public Safety is a Massachusetts member. It is designed to make extradition between states more effective.

*Uniform Attendance of Witnesses from without a state in Criminal Proceedings Act:*

This Act is supplementary to the Uniform Extradition of Criminals Act and is designed to permit a State to secure the attendance at a criminal trial of witnesses who may be in another state. The present inability to do this is a recurrent handicap to the enforcement of criminal law. This Act also was revised at this year's session of the Conference and has also been approved by the Inter-State Commission on Crime.

#### APPROPRIATION

The Commissioners serve without compensation, but have an annual appropriation for traveling and other disbursements, including a contribution of not over \$100 for the maintenance of the Conference. For many years this appropriation was \$750. For 1933, 1934 and 1935 it was \$600. In its last report the Commissioners recommended an increase to \$1,000, but the appropriation was actually reduced to \$500.

The recommendation of last year was based upon two considerations. The 1936 Conference was held at Boston and the Massachusetts Commissioners felt that this would entail considerable added expense for the inevitable entertainment of visiting Commissioners. They also felt that the dignity of the Commonwealth required an increase in the annual contribution of \$100 to the expenses of the Conference and recommended \$250. Several states allot as much as \$750 a year for this purpose, and in comparison to its size and importance the contribution of Massachusetts is niggardly.

The next Conference will be held in Kansas City and will consequently entail heavy traveling expenses for the Commissioners. For this reason a return to an annual appropriation of \$750 is recommended, of which \$250 should be allocated to the expenses of the Conference and the remainder to the expenses of the Commissioners.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*  
WILLARD B. LUTHER,  
HENRY PARKMAN, JR.